

Kim DeNigro

From: Roland Bartl
Sent: Monday, October 31, 2005 12:03 PM
To: Planning Board
Subject: FW: Comprehensive permit policy & developer meeting notes

II.
① we have heard RSVP's from 2 or 3 people.
② will receive comments from them @ meeting.

Part of the work that went onto the "To Live in Acton Report" was a meeting with local developers to discuss generally affordable housing policies and strategies to achieve more of it. In preparation of the 11/22 meeting with developers (to which nobody has signed up, yet), I am forwarding you the notes from that meeting that I asked Judy to dig up.

*Roland Bartl, AICP
Town Planner, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

-----Original Message-----

From: Judith A. Barrett (Home Office) [mailto:judith.barrett@cloverset.org]
Sent: Monday, October 31, 2005 3:47 AM
To: Roland Bartl
Subject: Comprehensive permit policy & developer meeting notes

Hi Roland,

I was going through some of my records tonight and I realized that I never heard back from you about the revised draft of the comprehensive permit policy. This made me question whether I actually sent it after you and I corresponded a couple of weeks ago. I do remember that you asked me about notes from the developer meeting last year, and I know I didn't send them at the time because I wasn't entirely sure where they were. Well, I found them. I never throw out data or documents from any of my projects, so the only issue was reconstructing where I had put the notes...as I suspected, they were on my other computer. Kristin wrote them and sent them to me after the meeting and as you will see, she kept a pretty detailed record of what the developers had to say.

As for the comprehensive permit policy, I removed Appendix D from the fourth draft and incorporated all of the edits we discussed in September. I thought more about Appendix D after the last meeting and I have a recommendation for you. If the town doesn't want to institute a formal (scored) review process for Project Eligibility applications, it might make sense for the comprehensive permit policy to retain a modified version of Appendix D (attached). The committee seemed less troubled by the list of review criteria than the weights assigned to them, so possibly going with a narrative evaluation instrument would increase everyone's comfort level and provide the town with more wiggle room than my original Appendix D would have accomplished. There's nothing wrong with a narrative evaluation; the only problem with it is that to make multiple sets of review notes meaningful for anyone else (like the developer!), someone would have to consolidate the notes into a single review summary.

On a related note, I know that Nancy had a concern that the Appendix D review criteria do not emphasize the importance of affordability to people below 70% of area median income (AMI). Although I agree with her that targeting the higher end of the moderate-income range does

11/2/2005

not address serious housing needs, it's not realistic to ask developers to build small projects and also provide units affordable to people at 50% AMI. It might be a great use of CPA revenue to provide buydown assistance, though. For example, if a developer offers two affordable units in an eight-unit development and he can't absorb lowering the price of the affordable units, the town could buy down the affordable units from 70-80% AMI to 50% AMI. This would not take a huge investment of CPA revenue and it would be fair to the developers of very small projects.

Hope you are well. I'm sure you must be totally swamped during Kristin's absence. Let me know if you need anything else from me.

Thanks,
Judi Barrett
Community Opportunities Group, Inc.
129 Kingston Street, Third Floor
Boston, MA 02111
Boston Office: (617) 542-3300, ext. 308
Home Office: (781) 834-7324
Cell: (781) 956-8863

Town of Acton
Housing Strategy Meeting with Invited Developers
May 21, 2004, 10:00 AM
Room 126, Acton Town Hall

Participants: Roland Bartl (RB), Acton Town Planner; Judi Barrett (JB), Community Opportunities Group; Paul Gaboury (PG), Kevin Sweeney (KS), Sweney & Sons; Mark White (MW) and Garry Shimmel (GS), Bentley Building Corp.; Ronald Peabody (RP), NorthWest Development; James Fenton (JF), Authentic Homes; Kristin Alexander (KA), Assistant Planner – recording.

RB opened the meeting at 10:15 AM.

JB explained:

- the other two housing strategy meetings with Town boards and committees;
- that she would like the developers to pretend they are the ones applying for the hypothetical Chapter 40B project.

RP - He was speaking for everyone at the table when he said no one in the room was looking for a fight. The Chapter 40B process is flawed to begin with. Developers do not know what the Town wants in terms of housing.

JB – Also, many people don't want anything.

RP –

- Services in the town are being taxed.
- Everyone wants 55 and over, or to restrict the number of bedrooms, or all apartments since they count 100% toward the Ch. 40B 10% affordability requirement for towns.
- The Town's minor affordable housing overlay requirements can work.
- The Town's major affordable housing overlay requirements cannot work because they require too much affordable housing – 40%.
- Ch. 40B limits a developer's profit to 20% - but that is the problem. Developers never reach 20%, 2-8% profit is more the norm, so 20% is misleading/flawed.
- One advantage he sees with Ch. 40B for the Town is that the appeals process (if a developer appeals a Board of Appeals decision) takes about 2 years. Some developers don't want to or can't wait that long.
- He just wants the Town to say what types of housing (and projects) they want – and not just say "over 55".

PG –

- There is no way to eliminate hands in the pot (project abutters, various boards and committees, etc.) and they each have different approaches and agendas – that is a problem.
- Abutters fundamentally drive the process.
- If the Town deals with abutters upfront, it would work better.

JF – Developers put tons of money out there up front.

RB – You can't design a project to make everyone happy because no one will be happy.

RP –

- The State wants 10% of housing to be affordable.
- The Town wants 55 and over housing.

JF – His over 55 project in East Acton went from 60 units to 30 units. Now only 1 unit is proposed to be affordable. Is that what we really want?

RP –

- His goal and every developer's goal is to make money.
- All the developers in the room have/want other goals too.
- Franklin Place was so contentious. After 1 year, Town Counsel finally got involved and was able to make all sides happier.
- If a Franklin Place process keeps happening, developers will come in with bigger projects.

KS –

- He agrees that there is no direction for developers.
- The Home Builders Association sat with the governor. The governor asked why builders can't build more housing units per year. The reason: Home Rule. It's a crisis. NIMBY (Not In My Back Yard) is a problem. The State is losing people because of the lack of affordable housing.
- The Home Builders Association is asking the DHCD director for a certain amount of houses per year because if they don't provide workforce housing, a \$1,000,000 house will be reduced to \$300,000 because no one will be able to sell.
- There is this attitude out there that kids are toxic.
- A study has shown that the weakest academic towns in MA have the highest densities. Kids born in MA who are adults now go to these towns to afford homes.
- If you graduate 300 kids in town each year, you should be building 150 homes per year. You also need to build rental units for starter homes.
- We need to know how many housing units the State wants built per year.
- We need to know how many housing units the Town wants built per year.
- Developers are in the business because they want to be.

MW & RP –

- Everyone, including consultants, now unfortunately assumes that developers make all this money.

JB –

- The pro forma is the only thing the Town can hang their hat on. But no one agrees on what "economic" is.

KS –

- Towns want 1-2 bedroom rentals. Towns should want 1-2 bedroom rentals just as “starters” – not to raise families.
- Towns have revenue problems. If you increase the population, taxes will be decreased, and the Towns will receive more revenue.

All Developers at the table - They would much rather pay an impact fee and know they can get the project through the approval process.

RP – And the landowner would know the impact / costs up front.

JF – The Acton Water District has a fee and it is working well. He hasn't seen any problems.

KS – With impact fees, it would all work better.

RP – If the Town and developer work together, small groups don't make such a huge impact. It is sad that the small (special interest) groups run the Town. Getting all the boards on the same page is a good; the necessary first step.

JF – When the approval process takes a long time, some times what happens is that a permit received at the beginning of the process runs out. The developer has to go apply for the permit again.

RB –

- You have to deal with public perception.
- The people who just move into town tend to be the people who want to stop development.
- He thinks that the Planning Board being appointed helps (less political pressure).

MW –

- In this country, the minority rules because they show up at meetings.
- An impact fee is a good thing, but the neighborhood will still oppose you.

RP – Judi, what do you think the problem is? What do you need from us?

JB –

- The State wants the Town to reach consensus on housing. It's not going to happen. The best that can happen is that the boards generally agree.
- Zoning should match housing goals.
- People are afraid to say what they want (related to housing) because it leaves less wiggle room when reviewing proposals and they might get what they say they want.

KS –

- EAV zoning is a good example. If the Town gives bonuses, the types of incentives developers need, the Town might get what it wants.

- When a developer buys land, he/she is always thinking “what am I forgetting?” There are so many issues to pay attention to/uncertainties.

RP – Younger people can't get into the development business because there are so many risks, you can't count on time, and because it's so expensive.

KS – Home Rule is controlling the volume of housing that can be built. It's a big problem.

RB – That is a State issue. We can't change it in Acton.

JF – The way for the Town to create affordable housing is to:

- Take Town-owned property;
- Put out for bid a housing project that must include housing at a reduced rate for teachers, police officers, etc.;
- Sell the project to the developer.

All Developers at the table – The project should be sold to a developer.

RB – The Towne School project was a lease deal – not an outright sale – so the Town needs to do prevailing wages according to a recent AG ruling. It's a problem.

RB – What would your reaction be if the community asked you the questions on the sheet that JB developed about the hypothetical Chapter 40B project?

All developers at the table – It's hard to answer the questions without the numbers. What are the costs?

RB –

- Developers would try to align with boards so boards need to agree as to what they want.
- Developers are going to look at the numbers to see if the project is economically feasible.
- Boards are out of their area of expertise when trying to figure out how much money the developer will make unless they have very good advice.

KS –

- Developers cannot maneuver under Chapter 40A now, so they are going to Chapter 40B.
- Moratoriums – developers can't finance.
- Banks won't finance infrastructure costs, so it makes them so they can't do them.
- Works if the project is financed until the last unit is sold.
- If 8 year protection is gone, developers can't finance unless/until the last unit is sold.

RP – (re: the hypothetical project) Yes, the proposed number of units could be reduced from 140 to 100 units, but it would be a business decision. He would go down to 8% profit, but only if he was going to get the permit.

KS –

- Cost is everything in a project.
- If the developer can make a 12% profit, everything in the project is better (signs, landscaping, etc.).
- If profit is tight, there is not enough volume in projects to be able to do a really nice project.

JF – No one can give them a reason why to cut the number of units in a project.

RB – Public perception is when a Ch. 40B project is proposed, the developer is coming in with more units than they need to do.

JB – Is that true?

KS – The State guidelines say 20 units per acre. People get upset over 20 units per acre.

RP –

- The key is for the ACHC to work with the boards and to be in tune with them.
- This (the process) is a wild card.
- Which way do we head?
- Falmouth is a good example of the process working.

RB – Because of the Franklin Place experience, people think that the number of units can be drastically reduced in any project.

KS – Mass Housing Partnership (MHP) tells people not to worry about Ch. 40B proposals because they never end up the way they start.

JB – Towns probably don't want to put in writing what they want because they'll get beaten up over it.

RP – Someone has to say "we like/want this as a model."

RB – In Acton, developers are not allowed to talk to the Board of Appeals (BOA) about Ch. 40B proposals before the public hearing.

RP – Sometimes developers want to close hearings with the BOA (if they continue for a long period of time), but under Ch. 40B the hearing must stay open as long as information keeps coming in.

PG – We'll work hard with everyone for a consensus on projects, but then you can't go to the last board (BOA) involved in the process.

JB – I think Acton needs a larger BOA.

KS – Developers can have a work session with the BOA as long as there isn't a quorum of the BOA present.

JB – The work session can be a public meeting (not a public hearing).

KS – Board members are afraid they'll upset the neighbors by approving something.

JF – There needs to be a uniform, MA code for everything (conservation, etc.).

MW –

- Public education is the key.
- You have to tell the public why Ch. 40B housing is good.
- As long as there is a minority out there, it's bad.

KS –

- Mark is right.
- The Home Builders Association created a public relations firm to educate the public about housing.
- If you defeat projects, you defeat homes for the kids.
- You need to get fairness into the process.

MW – Get the truth out there.

KS – The general public doesn't realize their own action is defeating the value of their property.

RB – It's difficult because people see property values going up.

KS & MW – You can't get people to move back.

(MW & GS left the meeting around this time.)

RB – The BOA can't participate in these housing strategy meetings. The policies developed through these meetings will have to be presented to them afterwards.

RP –

- The BOA needs to be open to a pre-meeting with developers so they know what is coming.
- The BOA needs to give time frames for the Ch. 40B approval process.
- The BOA needs to back off the pro forma thing. It won't hold up in the Housing Appeals Court (HAC). The developers don't know what the numbers (profits) will be.
- What housing types, costs, etc. do the boards want?
- Without a housing mission statement, where do you start?

All Developers at the table – The pro forma is a guess.

RB – The perception on the citizens' side is that the Town is making a concession to 40B developers because they don't have to do local zoning.

KS – Developers would do cluster developments by right because there is less infrastructure, more open space, and they could use satellite treatment plants which are less expensive and involve less environmental damage to build.

JB – A special permit allows for flexibility – that's why people like it.

KS – If the State code made cluster development by right - it would work.

RP – Make cluster development uniform code within town first.

KS – Different towns have different perc areas. Towns are basically using the health code as a zoning tool.

JF – It is the same with Conservation Commissions and wetlands bylaws.

KS –

- It is a taking.
- Timelines and guidelines are important in policies. Timelines are important for the people selling land too.

RP –

- If there were timelines, it would help towns deny proposals because they can say that the applicant didn't provide the information they needed for review by a certain date.
- The last 10% of development in a town really shapes the town.
- The direction the Town is starting to head in right now is really a shame, so the last 10% of housing is critical.
- Work on getting a consensus.

The meeting ended at 12:15.